

ENVIRONMENTAL PROTECTION
SITE REMEDIATION AND WASTE MANAGEMENT PROGRAM
Solid Waste Regulations, N.J.A.C. 7:26; and Recycling Rules N.J.A.C. 7:26A

Proposed Amendments: N.J.A.C. 7:26-2.4, 2.12, 2.13, 3.6, 3A.6,
3A.16, 3A.21, 3A.26, 3A.28, 3A.47, 3A.48,
4.8, 17.1, 7:26A-1.4

Authorized By: Bradley M. Campbell, Commissioner,
Department of Environmental Protection

Authority: N.J.S.A. 13:1E-48.1 et seq., 13:1B-3,
13:1D-125 and 13:1E et seq.

Calendar Reference: See summary below for explanation of the exception to calendar requirement.

DEP Docket No: 22-04-09/409

Proposal Number: _____

Submit written comments by (no later than 60 days after publication) to:

Leslie W. Ledogar, Esq.
Attention: DEP Docket Number 22-04-09/409
Office of Legal Affairs
New Jersey Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, New Jersey 08625-0402

The Department of Environmental Protection (Department) requests that commenters submit comments on disks or CDs as well as on paper. Submission of a disk or CD is not a requirement. The Department prefers Microsoft Word 6.0 or above. Macintosh formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation with the commenter's name and affiliation following the comment.

This rule proposal document can be viewed or downloaded from the Department's web page at www.state.nj.us/dep/dshw .

The agency proposal follows.

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Department of Environmental Protection (Department) is proposing amendments to the asbestos reporting requirements in the Solid Waste Rules at N.J.A.C. 7:26-2.12 and to the regulated medical waste provisions in these rules at N.J.A.C. 7:26-3A since the Department has determined that these reporting requirements are no longer necessary for the purposes for which they were originally intended. In addition, the Department is proposing to amend the Recycling Rules at N.J.A.C. 7:26A to exempt small grass and leaf transfer facilities from the approval requirements of N.J.A.C. 7:26A-3 and the planning requirements of the Solid Waste Rules at N.J.A.C. 7:26-6.10 and 6.11. Finally, the Department is proposing several administrative amendments to the Solid Waste Rules to correct items such as citations, names and addresses.

Asbestos Ten-day Notification

N.J.A.C. 7:26-2.12(b) through (f) require generators of regulated asbestos-containing material to notify the Department in writing at least 10 days prior to the generator's intent to demolish or renovate structures containing asbestos-containing materials. The Department is proposing to delete this ten-day notification requirement because it is duplicative of other Federal and State agency notification requirements to which generators of regulated asbestos-containing materials are subject. In their place, the Department proposes adding a new subsection (b) to N.J.A.C. 7:26-2.12 that requires generators of asbestos-containing materials to comply with the reporting requirements of these State agencies and of the USEPA.

Federal regulations at 40 CFR 61.145 to 61.155 require certain owners or operators of demolition or renovation activities involving regulated asbestos-containing material to notify the United States Environmental Protection Agency (USEPA) in writing, on a form obtained from the USEPA, ten days prior to commencing those activities. USEPA then enters the information submitted by the generators in accordance with the ten-day notification rule into an electronic database, and retains a hard copy of the notification for at least five years. In addition, USEPA has an archive of these data beginning from 1988, and the information contained in this archive is readily accessible by the Department and the public.

In addition, three New Jersey State agencies other than the Department have ten-day notification requirements concerning the demolition and renovation of facilities with asbestos-containing materials: the New Jersey Department of Community Affairs, N.J.A.C. 5:23-8; the New Jersey Department of Labor, N.J.A.C. 12:120-7.2; and the New Jersey Department of Health and Senior Services, N.J.A.C. 8:60-7.2. Each of these agencies retains the records concerning the demolition of asbestos-containing material for at least three years, and in some cases up to 30 years. Since information concerning the

demolition and renovation of structures containing regulated asbestos materials is readily available to the Department and the public from the agencies listed above, the Department believes that there is no need for its regulations to contain the same notification requirement.

N.J.A.C. 7:26-2.13(a)7ii requires the submission of records concerning asbestos disposal activity by the twentieth day of every month. The Department proposes deleting this requirement because it would no longer be needed if N.J.A.C. 7:26-2.12(b) is deleted as proposed. Deletion of N.J.A.C. 7:26-2.13(a)7ii necessitates folding N.J.A.C. 7:26-2.13(a)7i into the body of N.J.A.C. 7:26-2.13(a)7, and the Department also proposes this revision.

Regulated Medical Waste Reporting

N.J.A.C. 7:26-3A.21 sets forth the recordkeeping requirement for generators of regulated medical waste. The Department is proposing to amend the regulated medical waste reporting requirements at N.J.A.C. 7:26-3A.21(d) to except generators of 200 pounds or less of regulated medical waste per year from the annual generator reporting requirement. The Department is proposing this exception because it believes that, according to historical waste generation profiles for these small generators, the annual filing of reports detailing the amount of waste generated is no longer necessary.

Historically, the Department used information from the annual generator reports to develop regulated medical waste management plans, pursuant to the New Jersey Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq. During the course of developing these management plans, the Department has found that, although generators of 200 pounds or less of regulated medical waste make up more than 90% of generators of regulated medical waste, the quantity of medical waste that they

generate accounts for less than 10% of the total regulated medical waste generated in the State. This trend has remained constant since the implementation of the reporting requirement in 1990. Additionally, changes in waste management planning needs, in particular the elimination of solid waste flow control, has resulted in less reliance on the data from small generators.

The proposed amendment will affect only those regulated medical waste generators of 200 pounds or less of regulated medical waste per year. Generators of over 200 pounds per year will still be required to file annual reports that provide the Department with detailed information concerning the source of the majority of regulated medical waste in the State.

Grass and Leaf Transfer Facility Exemptions

The Department is proposing to add a new provision to the Recycling Rules at N.J.A.C. 7:26A-1.4(a)22 that exempts the owners and operators of small leaf and grass clipping transfer stations from the requirement to obtain an approval to operate pursuant to N.J.A.C. 7:26A-3 and to comply with the solid waste planning requirements at N.J.A.C. 7:26A-3. The proposed new exempted activity is the operation of small leaf and grass clipping transfer facilities that receive less than 3000 cubic yards of leaves per year and/or 1000 cubic yards of grass clippings per year, provided that these facilities adhere to the following specific operating criteria, designed to ensure no adverse impacts on the surrounding community: 1) leaves must be removed from the site within 45 days of receipt; 2) grass clippings must be promptly placed in non-leaking containers that must be immediately covered until the containers are removed from the site; 3) no grass clippings or leachate may remain on the ground after loading grass clippings into the container; 4) the grass clipping containers must be removed from the site within two days of the placement of the grass clippings into the container; and 5) records of the daily volume of grass clippings and leaves received and transferred must be maintained at the

facility for three years from the date that the records were generated.

The Department has determined that providing an exemption for small leaf and grass clipping transfer facilities would have minimal impact on the surrounding community. In the Department's experience, a similar exemption, adopted in 2001 at N.J.A.C. 7:26A-1.4(a)19 for larger leaf transfer facilities (those receiving less than 1000 cubic yards of leaves per day), resulted in minimal impacts to the surrounding community from, for example, truck traffic and odors.

Additionally, these facilities do not warrant the restrictions placed on the larger leaf facilities at N.J.A.C. 7:26A-1.4(a)19, such as the requirement that the facility be separated from adjacent land by a visual screen buffer.

Small leaf and grass clipping transfer facilities are generally located in small communities, where leaf and grass clipping collection generally occurs only once a week within a six to eight week annual collection window. Accordingly, the impact from truck traffic associated with this activity is minimal and the small quantity of leaves and grass clippings handled at these facilities should not generate odors, if handled as specified. Finally, many smaller communities would benefit from additional transfer facilities at which leaves and grass clippings could be staged for transport to compost facilities or other approved destinations and these amendments would ease the requirements for establishing such facilities in small communities.

N.J.A.C. 7:26A-1.4(b)4 of the Recycling Rules lists those activities that are exempted from the requirement to obtain general or limited approval prior to receiving, storing, processing or transferring Class B, Class C or Class D recyclable materials. The Department proposes to amend this section to add a provision exempting facilities that transfer leaves and grass from tonnage reporting in order to avoid double counting the materials transferred. The materials transferred by these facilities will be captured for

tonnage reporting purposes by subsequent reporting by the facilities that receive the materials from the exempt transfer facilities.

In addition to the amendments just described, the Department is proposing several administrative amendments to N.J.A.C. 7:26 and N.J.A.C. 7:26A to correct such things as names, addresses and citations as described more fully below.

The Department proposes to delete the phrase “located within the State of New Jersey” from N.J.A.C. 7:26-2.4(c)1i(2). The Third Circuit Court of Appeals ruled in *Atlantic Coast Demolition and Recycling v. Board of Freeholders, Atlantic County*, 48 F.3d 701 (3d Cir. 1995), that the fact that waste is generated in New Jersey is not relevant. This case concerned a State-mandated program to finance and build sufficient in-state capacity to dispose of New Jersey’s waste. Critical to the success of this program was solid waste flow control, which guaranteed the flow of waste and revenue necessary to maintain this in-state capacity. However, in *Atlantic County*, the Third Circuit invalidated New Jersey’s flow control system. Therefore, the issue of whether the waste is generated in New Jersey was made moot by the *Atlantic Coast* decision.

The Department proposes to correct the citation referenced at N.J.A.C. 7:26-3.6(b) from “N.J.A.C. 7:26-3.16” to N.J.A.C. 7:26-3, 16” as this provision should reference several subchapters within N.J.A.C. 7:26 including subchapters 3, 16 and 16A.

The Department proposes to replace the outdated name of the Bureau of Medical Waste and Technical Assistance in N.J.A.C. 7:26-3A.6(b)6iii, 7iii, 28(d), 47(a)1, and 48(a) with the current name of the bureau, “Bureau of Resource Recovery and Technical Programs.” In addition, in N.J.A.C. 7:26-3A.6(b) and 7iii, the Department proposes to correct the citations from N.J.A.C. 7:26-3A.8(e)4 to N.J.A.C. 7:26-3A.8(f)4. Finally, in N.J.A.C. 7:26-3A.28(d), 47(a)1, and 48(a) the Department proposes to add a reference to N.J.A.C. 7:26-3A.8(f)4 for clarity.

The Department proposes to correct N.J.A.C. 7:26-3A.16(e) by adding a citation to N.J.A.C. 7:26-3A.48 which contains the requirements for generators using out-of-state facilities when disposing of regulated medical waste. This citation was inadvertently omitted upon the last adoption of the rule.

The Department proposes to amend the title of N.J.A.C. 7:26-3A.26 from “Recordkeeping for generators that incinerate regulated medical waste on site” to the more accurate “Reporting for generators that incinerate regulated medical waste on site” as this section contains reporting requirements, not recordkeeping requirements.

The Department proposes to delete the reference to N.J.A.C. 7:26-16.4 from N.J.A.C. 7:26-4.8 since the information to support a confidentiality claim pursuant to N.J.A.C. 7:26-16.4 is filed and retained with the Department of Law and Public Safety, not the Department of Environmental Protection, thus the Department does not collect a fee for administering N.J.A.C. 7:26-16.4.

The Department proposes to correct the citation to confidentiality claims in N.J.A.C. 7:26-17.1 from N.J.A.C. 7:26-4.7 to N.J.A.C. 7:26-4.8.

The Department proposes to correct the citation referenced at N.J.A.C. 7:26A-1.4(b)4 from “N.J.A.C. 7:26-4.4(c)” to N.J.A.C. 7:26-4.4(b)”

Social Impact

The proposed deletion of the ten-day notification requirement for generators of asbestos-containing material at N.J.A.C. 7:26-2.12(b) will have a positive social impact.

The regulated community will no longer be required to report the same information concerning planned asbestos demolition to the Department as it has to report to other Federal and state agencies. Since this information is readily available from these other agencies, the value of the information to the public will not be lost.

The proposed amendment to N.J.A.C. 7:26-3A.21(d) eliminating the need for generators of small quantities of regulated medical waste, defined as 200 pounds or less per year, to submit annual reports to the Department will have a positive social impact by eliminating the need for these generators to spend time on unnecessary paperwork. Since generators of over 200 pounds of regulated medical waste, who make up over 90% of the regulated medical waste generated in New Jersey, will still have to submit the annual generators report, society will still benefit from the planning aspects of the solid waste regulations concerning regulated medical waste.

The proposed amendment to N.J.A.C. 7:26A-1.4(a)22, exempting small grass clipping and leaf transfer stations from the requirements of N.J.A.C. 7:26A-1.4(a) to obtain approval to operate the facility pursuant to N.J.A.C. 7:26A-3 and the requirements of the solid waste planning requirements at N.J.A.C. 7:26-6.10 will have a positive social impact on small towns by easing the requirements associated with establishing grass clipping and leaf transfer stations. This, in turn, will encourage the composting of grass clippings and leaves by town residents. Fostering the practice of composting this type of yard waste eliminates the need to landfill the waste. The citizens of New Jersey benefit from saving precious landfill space for materials that cannot be recycled or composted.

Finally, the minor amendments being made to the rules for corrections and clarification will have a positive social impact. By addressing these issues, the Department will provide clear and consistent rules and the regulated community will be better able to understand its regulatory obligations.

Economic Impact

The economic benefit to the regulated community from the proposed amendment deleting the requirement for generators of regulated asbestos-containing material to submit written notification to the Department 10 days prior to the generators' intent to demolish structures containing asbestos material at N.J.A.C. 7:26-2.12(b) will be positive, but nominal to the regulated community. The ten-day notification must still be sent to four other agencies, and the information must still be collected and maintained by the facility per N.J.A.C. 7:26-2.13(a)7ii, irrespective of being submitted to the Department.

The economic benefit to the regulated community from the proposed amendment to N.J.A.C. 7:26-3A.21(d) eliminating the requirement to submit an annual generator report for those generators of 200 pounds or less of regulated medical waste per year will result in a positive, but nominal economic benefit to the regulated community. The annual generator report typically takes about 10-15 minutes to complete and mail to the Department. The reduction in staff time spent preparing the report may result in a small cost savings for those generators filing the reports.

The proposed new rule at N.J.A.C. 7:26A-1.4(a)22, exempting small leaf and grass clippings transfer sites that receive less than 3000 cubic yards per year of leaves and less than 1000 cubic yards of grass clippings from the requirements of N.J.A.C. 7:26A-1.4(a) to obtain approval to operate the facility pursuant to N.J.A.C. 7:26A-3 and the requirements of the solid waste planning requirements at N.J.A.C. 7:26-6.10 will facilitate the transfer of yard trimmings for small municipalities. This will save these municipalities the cost of more frequent collection operations or having to locate and purchase larger more costly sites for transferring only small amounts of yard trimmings on a seasonal basis.

Finally, the minor amendments being made to the rule for corrections and

clarification will have a positive economic impact. By addressing these issues, the Department will provide clear and consistent rules and the regulated community will be able to implement the rules in a more efficient and less costly manner.

Environmental Impact

The proposed deletion of the ten-day notification requirement for generators of asbestos-containing material at N.J.A.C. 7:26-2.12(b) will have no discernible environmental impact. Although members of the regulated community will no longer be required to report information concerning planned asbestos demolition to the Department, they will still be required to submit the information to other State and Federal agencies. Since this information is readily available from these other agencies, the value of the information to the public and the environment will not be lost.

The proposed amendment to N.J.A.C. 7:26-3A.21(d), eliminating the need for generators of small quantities of regulated medical waste, defined as 200 pounds or less per year, to submit annual reports to the Department, will have no discernible environmental impact. The Department uses the information contained in these reports for developing capacity planning for regulated medical waste. Since the amount of waste generated by these small quantity generators amounts to less than ten percent of the total regulated medical waste generated in the state, such a small amount of waste will not have a significant impact on planning for the treatment or disposal of such waste. In addition, all waste generated by generators of 200 pounds or less will still be tracked from point of generation to disposal. Although the proposed amendment will exempt small quantity generators of regulated medical waste from the reporting requirements of N.J.A.C. 7:26-3A.21(d), small quantity generators must still maintain the tracking forms as required by N.J.A.C. 7:26-3A.21(a). Thus, the total waste collected by generators of less than 200 pounds of regulated medical waste will still be available from the Regulated Medical Waste Transporter Annual Reports filed with the Department.

The proposed amendment to N.J.A.C. 7:26A-1.4(a)22, exempting small grass clipping and leaf transfer stations from the requirements of N.J.A.C. 7:26A-1.4(a) to obtain approval to operate the facility pursuant to N.J.A.C. 7:26A-3 and the requirements of the solid waste planning requirements at N.J.A.C. 7:26-6.10 will provide a positive environmental benefit. Facilitating the transfer of yard trimmings on small sites will better utilize small land parcels which will mean that the materials will not require unique larger sites for the transfer of small amounts of materials. In addition, the proposed exemption will encourage small towns to develop grass clipping and leaf transfer facilities, thus encouraging the composting of these materials. The practice of composting yard waste such as grass clippings and leaves promotes good environmental practices among the citizens of New Jersey. The Department does not expect adverse environmental impacts to result from this new rule as the handling and management requirements for all yard trimmings transfer sites will still apply to these facilities.

Finally, the minor amendments being made to the rule for corrections and clarification will have a positive environmental impact. By addressing these issues, the Department will provide clear and consistent rules and the regulated community will be better able to understand their regulatory obligations. This better understanding of the rules will help ensure compliance with the rules and assist in the implementations of the rules, leading to better protection of the environment.

Federal Standards Analysis

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65), require State agencies which adopt, readopt or amend state regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The Department's regulated medical waste reporting requirements at N.J.A.C. 7:26-3A, its asbestos ten-day notification requirements at N.J.A.C. 7:26-2.13, and its recycling regulations at N.J.A.C. 7:26A are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under

Federal law or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis.

Jobs Impact

The proposed deletion of the ten day notification requirement for generators of asbestos containing material at N.J.A.C. 7:26-2.12(b) will not cause jobs to be lost or created since the regulated community will still be required to submit the notification to other state and Federal agencies.

The proposed amendment to N.J.A.C. 7:26-3A.21(d) eliminating the need for generators of small quantities of regulated medical waste, defined as 200 pounds or less per year, to submit annual reports to the Department will not cause jobs to be lost or created since such a small amount of time per year was required to generate the reports.

The proposed amendment to N.J.A.C. 7:26A-1.4(a)22, exempting small grass clipping and leaf transfer stations from the requirement to obtain approval to operate the facility pursuant to N.J.A.C. 7:26A-3 and from the planning requirements at N.J.A.C. 7:26-6.10 may result in the creation of new jobs by encouraging small towns to open grass clipping and yard waste transfer stations.

Agriculture Industry Impact

The Department has evaluated this rulemaking to determine the nature and extent of the proposed amendments' impact on the agriculture industry and has determined that there will be no such impact.

The agricultural industry does not typically generate regulated medical waste or asbestos-containing materials, and is not involved in the transfer of small amounts of yard trimmings.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act (Act), N.J.S.A. 52:14B-16, et seq., the Department has determined that the amendments being proposed to N.J.S.A. 7:26-2.12(b) and N.J.S.A. 7:26-3A.21(d) would apply to small businesses, as defined in the Regulatory Flexibility Act.

The proposed deletion of the ten-day notification requirement for generators of asbestos containing material at N.J.A.C. 7:26-2.12(b), and the proposed amendment to N.J.A.C. 7:26-3A.21(d) eliminating the need for generators of small quantities of regulated medical waste, defined as 200 pounds or less per year, to submit annual reports to the Department will lessen the reporting requirements for these generators, many of whom are considered small businesses.

The proposed amendment to N.J.A.C. 7:26A-1.4(a)22 concerning small grass clippings and leaf transfer facilities will have no impact on small businesses as they are not involved in operating transfer facilities for yard waste. This type of operation is normally conducted by the State's municipalities.

Smart Growth Impact Statement

Executive Order No. 4 (2002) requires State agencies which adopt, amend or repeal any rule adopted pursuant to Section 4(a) of the Administrative Procedure Act (N.J.S.A. 52:14B-4(a)) to describe the impact of the proposed rule on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the proposed new rule and amendments' impact on smart growth and the implementation of the State Plan. The amendments repeal reporting requirements and the new rule provides for minor changes to operational limits for small transfer sites. Because the new rule and these amendments do not involve land use policies or infrastructure development, they are not expected to have any impact on

the achievement of smart growth. The proposed amendments are not expected to have any impact on implementation of the State Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 26

SOLID WASTE REGULATIONS

SUBCHAPTER 2. DISPOSAL

7:26-2.4 Application procedures for a solid waste facility permit

(a) – (b) (No change.)

(c) A complete application for a SWF permit for a small-scale solid waste facility as identified in (c)1 or 2 below shall include the following:

1. For a small-scale thermal destruction facility:

i. Documentation and information sufficient to demonstrate, to the satisfaction of the Department, that the facility meets the following criteria:

(1) (No change.)

(2) The waste is generated at the site of the thermal destruction operation, at other associated intracompany plants [located within the State of New Jersey]; or is regulated medical waste, or home self-care waste managed as regulated medical waste, that is received and managed by the operator of the small-scale incinerator in conformance with the requirements of N.J.A.C. 7:26-3A;

(3) – (5) (No change.)

ii. –vi. (No change.)

2. (No change.)

(d) –(g) (No change.)

7:26-2.12 Generator requirements for disposal of asbestos containing waste materials

(a) (No change.)

[(b) Generators of regulated asbestos containing material shall submit a written notification of intention to demolish in accordance with (d) and (e) below at least 10 days prior to beginning the demolition activity.

(c) Generators of regulated asbestos containing material shall submit a written notification to renovate in accordance with (d) and (e) below at least 10 days prior to beginning the renovation activity unless the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is:

1. Less than 260 linear feet on pipes or 160 square feet on other facility components; or

2. Less than 35 cubic feet of facility components where the length or area could not be measured prior to stripping, removal, dislodging, cutting, or drilling.

(d) The written notification required by (b) and (c) above shall include:

1. Name, address and telephone number of the generator.

2. Quantity and nature of waste to be disposed;
3. Name, address, telephone number, and New Jersey Department of Environmental Protection registration number of the transporter;
4. Name and address of the sanitary landfill at which disposal will occur;
5. Date and time of disposal; and
6. A copy of any written notification required by 40 CFR 61.145 to 61.155.

(e) The written notification required by (b) and (c) above shall be submitted to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
CN 414
Trenton, NJ 08624-0414

(f) The Department may allow less than 10 days prior notification, where emergency circumstances require.]

(b) Generators of asbestos-containing waste materials, including sources subject to 40 C.F.R. 61.142, 61.144, 61.145, 61.146, and 147, shall comply with the reporting requirements of the following agencies: United States Environmental Protection Agency, at 40 CFR 61.145 to 61.155; the New Jersey Department of Community Affairs, at N.J.A.C. 5:23-8; the New Jersey Department of Labor, at N.J.A.C. 12:120-7.2; and the New Jersey Department of Health and Senior Services, at N.J.A.C. 8:60-7.2.

7:26-2.13 Solid waste facility; records

(a) Each solid waste facility permittee shall maintain a daily record of wastes received. The record shall include:

1. – 6. (No change.)

7. In addition to the information required in (a)1 through 6 above, sanitary landfills which accept asbestos and asbestos-containing waste materials shall[:

i. M]maintain a separate daily record of the asbestos and asbestos-containing waste received, which shall include:

[(1)] i No change in text.

[(2)] ii No change in text.

[(3)] iii No change in text.

[(4)] iv No change in text.

[(5)] v. For rejected shipments, the reason for rejection and disposition of the shipment after rejection[; and].

[ii. By the 20th day of every month, submit a copy of the daily record required by (a)7i above, covering the asbestos disposal activity of the previous calendar month. The information shall be submitted to:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of Resource Recovery and Technical Programs

CN 414

Trenton, New Jersey 08625-0414]

8. – 9. (No change.)

(b) – (j) (No change.)

SUBCHAPTER 3. TRANSPORTATION

7:26-3.6 Intermodal container facility

(a) (No Change)

(b) A person registered and licensed in accordance with N.J.A.C. 7:26-3[.] , 16 and 16A to transport solid waste in the State of New Jersey that seeks to operate an intermodal container facility shall submit an application containing all of the following information. Three copies of the entire application and all accompanying documents shall be submitted to the Department at the address specified in (c) below, and at the same time one copy each to the host municipality and district solid waste plan implementation agency:

1.- 18. (No Change)

(c) – (o) (No Change)

SUBCHAPTER 3A. REGULATED MEDICAL WASTE

7:26-3A.6 Definition of regulated medical waste

(a) (No Change.)

(b) The following are excluded from the definition of regulated medical waste:

1.– 5. (No Change.)

6. Biological materials, including, but not limited to, those blood or blood products and pathological waste listed at (a)2 and 3 above, intended for use, reuse or recycling as raw materials or products, except materials classified as Class-6[.] Isolation Wastes₂ pursuant to (a)6 above if the following conditions are met:

i. – ii. (No Change.)

iii. The generator of the materials reports the type, destination, and method of use, reuse or recycling of the materials to the [Bureau of Medical Waste and Technical Assistance] Bureau of Resource Recovery and Technical Programs in the Department at the address given at N.J.A.C. 7:26-3A.8[(e)](f)4 and the district solid waste coordinator of the district where the material originated at least once per year, or on request of the Department or any other agency;

7. Nonbiological materials intended for use, reuse or recycling, except materials classified as Class-6, Isolation Waste pursuant to (a)6 above, if the following conditions are met:

i. – ii. (No Change.)

iii. The generator of the materials reports the type, quantity, destination, and method of use, reuse or recycling of the materials to the [Bureau of Medical Waste and Technical Assistance] Bureau of Resource Recovery and Technical

Programs in the Department at the address given at N.J.A.C. 7:26-3A.8[(e)](f)4 and the district solid waste coordinator of the district where the material originated at least once per year, or on request of the Department or any other agency; and

8. (No change.)

(c)– (e) (No change.)

7:26-3A.16 General requirements for regulated medical waste generators, transporters, collection facilities, intermediate handlers and destination facilities

(a)– (d) (No change.)

(e) Persons shall dispose of regulated medical waste only with a registered intermediate handler, at a registered destination facility, a regulated medical waste sanitary landfill permitted in accordance with N.J.A.C. 7:26-3A.18, a resource recovery facility authorized to accept such waste and permitted in accordance with N.J.A.C. 7:26-2, or a facility in another state authorized to accept such wastes by such state. Shipments to out-of-State facilities shall be made in accordance with N.J.A.C. 7:26-3A.28, [and] 3A.46 and 3A.48.

(f) – (j) (No Change.)

7:26-3A.21 Generator recordkeeping

(a) – (c) (No change.)

(d) [All g]Generators of more than 200 pounds of regulated medical waste during the reporting period of June 22 through June 21 of each calendar year shall submit annual generator reports to the Department [for the period June 22 through June 21 of each calendar year] on forms available from the Department at the address listed at

N.J.A.C. 7:26-3A.8[(d)](f)4. The generator annual report shall cover all regulated medical waste generated, treated or destroyed, and disposed of during the reporting period. The generator annual report shall be submitted to the Department by July 21 of each calendar year[. The generator annual report] and shall include, but not be limited to, the following information:

1.- 6. (No change.)

(e) - (g) (No change.)

7:26-3A.26 [Recordkeeping] Reporting for generators that incinerate regulated medical waste on-site

(a) – (c) (No Change.)

7:26-3A.28 Transporter acceptance of regulated medical waste

(a)– (c) (No change.)

(d) Before accepting regulated medical waste for transport to a facility outside New Jersey, a transporter shall obtain certification from the out-of-state facility that such a facility is authorized or permitted to accept such waste by the receiving state and shall submit the certification to the [Bureau of Medical Waste and Technical Assistance] Bureau of Resource Recovery and Technical Programs in the Department at the address given at N.J.A.C. 7:26-3A.8(f)4.

7:26-3A.47 Alternative or innovative technology authorization

(a) Any alternative or innovative technology for the treatment and/or destruction of regulated medical waste, and any modification thereof, shall be authorized by the Department and DHSS prior to any marketing, sale or use in New Jersey, in accordance with the following:

1. Persons seeking to market, sell or use an alternative or innovative technology shall submit an application to the [Bureau of Medical Waste and Technical Assistance] Bureau of Resource Recovery and Technical Programs in the Department at the address given at N.J.A.C. 7:26-3A.8(f)4 for authorization and pay the alternative technology review fee in accordance with N.J.A.C. 7:26-3A.8. The application shall be on forms provided by the Department and shall include the following:

i.– x. (No change.)

2.– 6. (No Change.)

(b)– (c) (No Change.)

7:26-3A.48 Requirements for generators using out-of-State facilities disposing of regulated medical waste from New Jersey

(a) A generator using an out-of-State intermediate handler, destination facility, transfer facility, or other medical waste disposal facility operating for any purpose that uses the U.S. Postal Service or other parcel delivery service in New Jersey and uses the U.S. Postal Service or other authorized mail or parcel delivery service to transport regulated medical waste from New Jersey to the out-of-State facility, shall request a certification from the out-of-State facility, which shall include copies of any state and local authorizations and/or permits. Copies of this certification shall be sent by the generator to the [Bureau of Medical Waste and Technical Assistance] Bureau of Resource Recovery and Technical Programs at the address given at N.J.A.C. 7:26-3A.8(f)4. This information shall be provided by the generator prior to sending any RMW out-of-State for disposal[.,].

(b) – (c) (No change.)

SUBCHAPTER 4. FEES FOR SOLID WASTE

7:26-4.8 Confidentiality claims

Any person submitting information to the Department and asserting a confidentiality claim in accordance with the procedures set forth in N.J.A.C. 7:26-17 [or 7:26-16.4] shall pay a fee of \$350.

SUBCHAPTER 17. CONFIDENTIALITY DETERMINATIONS

7:26-17.1 Scope

(a) (No change.)

(b) All information collected by or originated by the Department in connection with solid waste regulatory activities under N.J.A.C. 7:26 shall be generally available to the public except as provided otherwise in this subchapter. Any owner or operator of a solid waste facility or any solid waste collector or transporter required to submit any information pursuant to the Act or this chapter, which in the owner's or operator's opinion, constitutes trade secrets or proprietary information may assert a confidentiality claim by following the procedures set forth in this subchapter and by paying the fee set forth in N.J.A.C. 7:26-4.[7]8.

CHAPTER 26A

RECYCLING RULES

SUBCHAPTER 1. GENERAL PROVISIONS

7:26A-1.4 Exemptions

(a) The activities listed below are exempted from the requirement to obtain a general or limited approval pursuant to N.J.A.C. 7:26A-3 and, unless otherwise specified, the solid waste planning requirements at N.J.A.C. 7:26-6.10 or 6.11. The specific criteria applicable to these activities are as follows:

1-21. (No change.)

22. The receipt of less than 3000 cubic yards of leaves per year, and/or 1000 cubic yards of grass clippings per year, at a site for transfer to a recycling center holding a general approval pursuant to N.J.A.C. 7:26A-3 for the receipt and processing of leaves and/or grass, or to other sites exempted from the requirement to obtain a general or limited approval to operate pursuant to N.J.A.C. 7:26A-1.4, or other specific use approved in writing by the Department where the receipt and transfer activity meets the criteria below:

i. Leaves shall be removed from the site within 45 days of receipt;

ii. Grass shall be placed promptly in nonleaking containers, such as roll-offs, upon receipt at the facility. The container shall be covered immediately following loading and shall remain fully covered until removed from the site;

iii. No grass clippings or leachate shall remain on the ground after loading into non-leaking containers as specified in ii above;

iv. Containers shall be removed from the site within two days of the placement of any grass in the container; and

v. Records of the daily volume of leaves and grass clippings received and transferred, including the name and address of the site to which the leaves are transferred, shall be kept and maintained at the facility for three years from the date that the records were generated. The required records shall be made available to the Department during an inspection and shall be submitted to the Department upon request.

(b) The general requirements applicable to all exemptions set out in (a) above

are

as follows:

1-3. (No change.)

4. With the exception of the exempted activities set forth at (a)5, 7, [and] 8, 19 and 22 above, tonnage reports shall be submitted in accordance with N.J.A.C. 7:26A-4.4[(c)] b;

5-7. (No change.)

(c) (No change.)

Based on consultation with staff, I hereby certify that the above statements, including the Federal Standards Analysis addressing the requirements of Executive Order No. 27 (1994) and N.J.S.A. 52:14B-23, permit the public to understand accurately and plainly the purposes and expected consequences of this proposal. I hereby authorize this proposal.

Date: _____

Bradley M. Campbell,
Commissioner
Department of Environmental Protection